

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KEITH BOYCE,

Plaintiff,

07 CV 5439 (DCL)

-against-

ANSWER

THE LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR") sued herein as The Long Island Railroad Company, by its attorney, FRANKLIN W. KRONENBERG, ESQ., answering the complaint of plaintiff, alleges upon information and belief:

ANSWERING THE FIRST CAUSE OF ACTION

1. Admits those allegations contained in paragraphs "1," "2," "3", "4" and "5" of the Complaint.
2. Denies each and every allegation contained in paragraph "6" of the Complaint, except to admit that on or about March 3, 2007 and at all times hereinafter mentioned, the defendant maintained and controlled certain railroad operations which included the Morris Park Shop, 16 Track located in Queens, New York.
3. Denies each and every allegation contained in paragraphs "7," "8," "9," and "10" of the Complaint.

**ANSWERING THE SECOND CAUSE OF ACTION**

4. Defendant LIRR repeats and reiterates each and every denial contained in paragraphs "1" through "3" as if set forth at length herein.

5. Denies each and every allegation contained in paragraphs "12" and "13" of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

6. Upon information and belief, that if the plaintiff was injured as is alleged in the Complaint, he was injured in whole or in part by reason of his own negligence and without any fault or any negligence on the part of the defendant, its agents, servants and/or employees, and the defendant did not violate any statutes enacted for the safety of its employees.

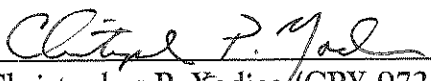
**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

7. This action is barred because plaintiff fails to state a claim regarding paragraph 12 of the Complaint.

**WHEREFORE**, defendant demands judgment dismissing the complaint herein together with costs and disbursements of this action.

Dated: Jamaica, New York  
July 12, 2007

**FRANKLIN W. KRONENBERG, ESQ.**  
*Acting Vice President/General Counsel & Secretary*  
Attorney for Defendant

By:   
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(File No. JN-6352 /07/001478)

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